

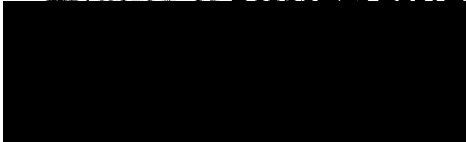
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U.S. Department of Homeland Security  
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Washington, DC 20536



U.S. Citizenship  
and Immigration  
Services

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prevent clearly unwarranted  
invasion of personal privacy**



*H2*

FILE:



Office: PHOENIX, ARIZONA

Date:

**FEB 11 2004**

IN RE:

Applicant:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Robert P. Wiemann*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The waiver application was denied by the Interim District Director, Phoenix, Arizona, and is now before the Administrative Appeals Office (AAO) on appeal. The interim district director's decision will be withdrawn and the appeal will be dismissed as moot.

The applicant is a native and citizen of Mexico who entered the United States without a lawful admission or parole. The applicant was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for obtaining a false alien registration card and social security card and using the documents to gain employment in the United States. The applicant is married to a U.S. citizen and he is the beneficiary of an approved Petition for Alien Relative. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to reside in the United States with his U.S. citizen spouse.

The Interim District Director concluded that the applicant had failed to establish that extreme hardship would be imposed upon his U.S. citizen spouse and denied the application accordingly. *See Interim District Director's Decision* dated April 17, 2003.

On appeal the applicant's spouse asserts that the Immigration and Naturalization Service ("Service", now known as Citizenship and Immigration Services, "CIS") misapplied the extreme hardship standard set forth in section 212(i) of the Act, and that the evidence in the record establishes extreme hardship to the applicant's qualifying relative.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

(i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General (now the Secretary of Homeland Security, [Secretary]) may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The AAO has found that in order for an individual to be found inadmissible under section 212(a)(6)(C) of the Act, the fraud or willful misrepresentation of a material fact must be made to an authorized official of the U.S. government. Obtaining and presenting a false alien registration card and a social security card in order to gain employment from a private employer does not, in and of itself, render the applicant inadmissible under section 212(a)(6)(C)(i) of the Act.

In *Matter of Y-G-*, 20 I&N Dec. 794 (BIA 1994), the Board of Immigration Appeals stated:

It is well established that fraud or willful misrepresentation of a material fact in the procurement or attempted procurement of a visa, or other documentation, must be made to an authorized official of the United States Government in order for excludability under section 212(a)(6)(C)(i) of the act to be found.

In the present case, a review of the record reflects no indication that the applicant defrauded or made a willful misrepresentation to a U.S. government official when he bought a fraudulent alien registration card and social security card, or when he worked illegally. The AAO thus finds that the interim district director erred in concluding that the applicant was inadmissible pursuant to section 212(a)(6)(C)(i) of the Act. As such, the issue of whether the applicant established extreme hardship to a qualifying relative pursuant to section 212(i) of the Act is moot and will not be addressed.

**ORDER:** The interim district director's decision is withdrawn, as it has not been established that the applicant is inadmissible. The appeal is dismissed as moot.